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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,147	09/25/2003	Shannon R. Bantz	0732.66933	6087

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EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/672,147

Applicant(s)

BANTZ, SHANNON R.

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/25/2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the examiner as to what the applicant means by "a check valve in said overflow water passage permitting flow only in the direction from said outer body to said inner body" as described in claim 7.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 9-15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benne et al (6,292,958) in view of Barhydt, Sr. (5,114,072).

The Benne et al reference discloses a tub filler and overflow assembly for mounting in an overflow opening in a tub wall, the assembly comprising: inner and outer bodies 7,15 ; a fastener 12 connecting the bodies and adapted to draw them together to clamp toward opposed faces of the tub wall 2 around the overflow opening 3; an overflow water outlet passage 12c extending through the inner and outer bodies 7,15; a water inlet passage extending through said inner and outer bodies 7,15 , the water inlet

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passage 15e having an inlet 11 defined by the outer body 7 and an outlet 15d defined by the inner body 15; and a flow conditioning assembly 20 supported by the inner body at the outlet 15d of the water inlet passage 15e.

Although Benne et al reference does not disclose that the inlet flow conditioning assembly 20 includes a plurality of screen laminas, and the flow conditioning assembly 20 and the outlet 15d have a non-circular shape, attention is directed to the Barhydt, Sr. reference which discloses a flow conditioning assembly 1 including a plurality of screens 12.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a flow conditioning assembly in the Benne et al filler and overflow assembly in view of the teaching of the Barhydt, Sr. reference for breaking the water into fine jets in order to produce a laminar flow. Furthermore, it would be obvious to one of ordinary skill to modify an outlet of a spout to have any shape, such as a non-circular shape, as desired.

Regarding claim 5, the flow conditioning assembly 1 includes a flow straightener upstream 5 of the screen assembly.

Regarding claim 6, the flow straightener includes a plurality of barriers 5c dividing flow through the flow straightener into a number of separated flow segments.

Regarding claim 9, the tub filler and overflow assembly comprises an unobstructed header region between the flow straightener and the screen assembly.

Regarding claim 10, the water inlet passage has a corner immediately upstream of the flow conditioning assembly.

Regarding claim 11, the barriers between slots 5c include a plurality of protrusions constituting vanes parallel to one another and parallel to the direction of flow through the inlet flow conditioning assembly.

Regarding claim 12, the plurality of barriers number between three and ten.

Regarding claim 14, the screen laminas 12 extend across the path of flow through said inlet flow conditioning assembly 1.

5. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benne et al (6,292,958) in view of Barhydt, Sr. (5,114,072) and further in view of Parkinson (3,730,439).

Benne et al in view of Barhydt shows a tub filler overflow assembly as described above.

Although the Benne et al tub filler overflow assembly does not include the wire directions of each the screen laminas being angularly offset from the wire directions of the adjacent one of said screen laminas, attention is directed to the Parkinson reference which shows another flow condition assembly including the screen laminas offset from each other.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to orientate the screens of the Benne et al device offset each other in view of the teaching of the Parkinson reference for enhancing the aerating effect.

6. Claims 1-6, 9-15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell (3,99,691) in view of Shames et al (3,684,191).

The Benne et al reference discloses a tub filler and overflow assembly for mounting in an overflow opening in a tub wall, the assembly comprising: inner and outer bodies; a fastener connecting the bodies and adapted to draw them together to clamp toward opposed faces of the tub wall around the overflow opening; an overflow water outlet passage extending through the inner and outer bodies; a water inlet passage extending through said inner and outer bodies, the water inlet passage having an inlet defined by the outer body and an outlet defined by the inner body; and a flow conditioning assembly supported by the inner body at the outlet of the water inlet passage.

Although Benne et al reference does not disclose that the inlet flow conditioning assembly 20 includes a plurality of screen laminas, attention is directed to the Shames et al reference which discloses a flow conditioning assembly 12 including a plurality of screens 22.

Regarding claim 5, the flow conditioning assembly includes a flow straightener upstream 20 of the screen assembly.

Regarding claim 6, the flow straightener 20 includes a plurality of barriers between slots dividing flow through the flow straightener into a number of separated flow segments 42.

Regarding claim 9, the tub filler and overflow assembly 12 comprises an unobstructed header region between the flow straightener and the screen assembly.

Regarding claim 10, the water inlet passage has a corner immediately upstream of the flow conditioning assembly.

Regarding claim 11, the barriers between slots 42 include a plurality of protrusions constituting vanes parallel to one another and parallel to the direction of flow through the inlet flow conditioning assembly.

Regarding claim 12, the plurality of barriers number between three and ten.

Regarding claim 14, the screen laminas 22 extend across the path of flow through said inlet flow conditioning assembly.

7. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell (3,99,691) in view of Shames et al (3,684,191) and further in view of Parkinson (3,730,439).

Newell in view of Shames shows a tub filler overflow assembly as described above.

Although the Newell tub filler overflow assembly does not include the wire directions of each the screen laminas being angularly offset from the wire directions of the adjacent one of said screen laminas, attention is directed to the Parkinson reference which show another flow condition assembly including the screen laminas offset from each other.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to orientate the screens of the Newell device offset each other in view of the teaching of the Parkinson reference for enhancing the aerating effect.

**Conclusion**

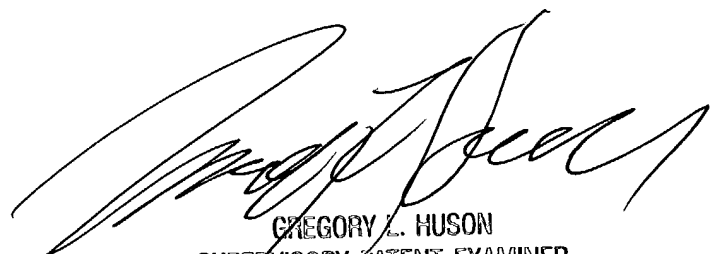
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Farmer '848, Redmond et al and Pasman references show a combination of tub spout and overflow. The Parkinson et al '825 discloses a laminar flow regulator.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 703-306-5504. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HL  
February 20, 2004



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